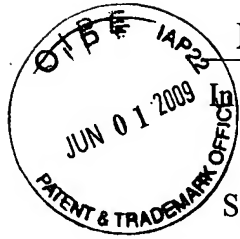


Application No. 10/628,142  
Appeal Brief



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the application of: HAASE, Ignatius Xavier

Serial Number: 10/628,142

Examiner: BLACKWELL, James H.

Filed: July 25, 2003

Art Unit: 2176

Confirmation No.: 9437

For: APPARATUS AND METHOD FOR ENCODING AND  
DISPLAYING DOCUMENTS

Mail Stop APPEALS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REVISED APPEAL BRIEF UNDER 37 CFR 1.192**

Dear Sir or Madam:

**REAL PARTY IN INTEREST**

The real party in interest is the inventor and Applicant, Ignatius Xavier Haase.

**RELATED APPEALS AND INTERFERENCES**

None.

**STATUS OF CLAIMS**

Claims 1, 3, 5, 7-8, 13 and 17-20 are pending and rejected, and the appeal is on the rejection of these claims. Claims 2, 4, 6, 9-12 and 14-16 were previously cancelled.

## STATUS OF AMENDMENTS

No amendments were filed after final rejection.

## SUMMARY OF INVENTION

### Summary Of The Invention As In The Independent Claims With References To Drawings And Specification Text

The invention as recited in claim 1 is a method of encoding a document. At step 23 (Fig. 2), multiple characteristics (speaker, location, character, narrator, scene change, conflict, etc.) about text (e.g., a story) are selected or identified (e.g., p. 5, lines 12-20). At steps 23 and 25 (Fig. 2), a key (Fig. 4) is created to correlate the multiple characteristics with multiple unique indicia, e.g., colors or shades of gray (e.g., p. 5, lines 18-24 and 12-20).

At steps 27, 28, and 31 (Fig. 2), a line/element look-up or correlation table 29 (Fig. 3) is created to relate a line of text ( $i = 101, 102$ , etc) with a characteristic (e.g., j, k, etc.) (p. 5, line 29- p. 6, line 9).

At step 33 (Fig. 2), the unique indicia (e.g., color or shades or gray) are placed **adjacent** appropriate lines of text in the document. The unique indicia correspond to the characteristic or characteristics in the line of text on the basis of the key (line and element table of Fig. 3 based on the key of Fig. 4)(p. 6, lines 15-18)(See also, p. 6, lines 4-7 and 10-13, and Fig. 5).

Moreover, there is at least one line of text (e.g., line 106 in Fig. 5) having at least two unique indicia adjacent thereto (p. 6, lines 4-5). In the steps of creating and placing,

the unique indicia are color-coded segments, and the color-coded segments are placed in a margin adjacent to and in line with the text of the line, and at least some color-coded segments placed contiguously with the same color-coded segments from adjacent lines of text and in a columnar arrangement perpendicular to the lines of text, so as to form continuous segments of color-coding. (Fig. 5 shows various lines of text that have multiple colors/characteristics and contiguous placement of the colors/characteristics is evident from Fig. 5 and from the Appendix (e.g., p. A1) of the provisional application incorporated by reference and a copy of which page A1 is submitted herewith for reference.)

At least some lines of text (e.g., 105, 106 in Fig. 5) have at least two characteristics and a corresponding number of unique indicia in the margin adjacent the lines (p. 6, lines 4-6 and Figs. 3 and 5).

The invention as recited in claim 7 is a system for encoding and displaying a document. There is a memory 3 containing a document (text 9) and multiple characteristics about text of the document each in relation to a unique indicia, and containing a key (at encoding program 11) for correlating the multiple characteristics with each of the unique indicia. (See p. 4, lines 26-30 and the description of claim 1 above.)

There is also a display 7 (Fig. 1 and p. 5, lines 8-9) showing at least some of the unique indicia adjacent at least some lines of text in the document. The unique indicia placed adjacent each line of text correspond to the characteristic or characteristics in the line of text on the basis of the key, there is at least one line of text having at least two unique indicia adjacent thereto, the unique indicia comprise color-coded segments, and

the color-coded segments are placed in a margin adjacent to and in line with the text of the line, and there are at least some color-coded segments placed contiguously with the same color-coded segments from adjacent lines of text and in a columnar arrangement perpendicular to the lines of text, so as to form continuous segments of color-coding, and at least some lines of text have at least two characteristics and a corresponding number of unique indicia in the margin adjacent the lines. (See the description of claim 1 above)

Claim 13 recites an encoded document (p. 5, lines 10-14, Fig. 5, text lines 101-117, and columns j, k, l) of the type created by the process and system of claims 1 and 7. There are at least some unique indicia adjacent at least some lines of text in the document. The unique indicia adjacent each line of text correspond to the characteristic or characteristics in the line of text on the basis of the key. There is at least one line of text having at least two unique indicia adjacent thereto. The unique indicia comprise color-coded segments, and the color-coded segments are placed in a margin adjacent to and in line with the text of the line, and there are at least some color-coded segments placed contiguously with the same color-coded segments from adjacent lines of text and in a columnar arrangement perpendicular to the lines of text, so as to form continuous segments of color-coding, and at least some lines of text have at least two characteristics and a corresponding number of unique indicia in the margin adjacent the lines. (See the description of claim 1 above)

### **General Summary Of The Invention**

In general, in one embodiment, the present invention is a method and device for creating a color coding key for various characteristics of a story (or other text) and placing the colors in accordance with the key adjacent the corresponding line or lines of text that have the corresponding characteristics (p. 5, lines 24-26 and Fig. 5). At least some lines of text have multiple colors adjacent thereto (p. 6, lines 4-6, Fig. 5, e.g., line 106). Preferably color codes in adjacent lines of text are contiguous (Fig. 5, see e.g., column j “ORANGE” for lines of text 101-105 and see Appendix page A1 from the incorporated by reference provisional application, which page A1 is attached hereto as an Appendix for reference). Visually, this allows the reader to easily see what segment of the text contains the characteristic that corresponds to the contiguously placed color.

In another embodiment, the invention is the encoded document (Fig. 5) that is created using the method and system.

## **GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

### **Rejections As Set Forth In the Last Official Action**

Claims 1, 3, 5, 7-8, 13 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Rivette et al (U.S. Patent No. 5,623,679).

### **More Specific Description of Rejections and Issues**

1. In the Office Action of September 9, 2008 (pp. 2 et seq) Claims 1, 3, 5, 7-8, 13 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Rivette et al. Is this rejection proper?

2. In the Office Action (pp. 9-10, section entitled response to argument), there is a discussion of how in Rivette, one **could** create a potentially contiguous line of green triangles, or some other shape, “that depending on perhaps the shape of the symbol ..., symbol size ..., etc. would form a continuous segment of color-coding.” Is this an impermissible obvious to try and/or speculative rejection that cannot be supported by the reference, and in any event is not appropriate for a rejection?

3. In the Office Action (p. 5), there is a discussion of how in Rivette, not only **could** one form contiguous segments (see issue 2 above) but also one **could** have two or more symbols per line: “multiple characteristics **can** be indicated for a line....” (see 4<sup>th</sup> and 3<sup>rd</sup> to last lines of page, emphasis added) Is this an impermissible obvious to try and/or speculative rejection that cannot be supported by the reference, and in any event is not appropriate for a rejection?

## ARGUMENT

Claims 1, 3, 5, 7-8, 13 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Rivette et al (U.S. Patent No. 5,623,679).

### **A. CLAIM 1:**

In one embodiment, the present invention is a method of encoding a document by first identifying multiple characteristics about text of the document. Once the characteristics of the text are identified, a key for correlating the multiple characteristics with multiple unique indicia is created, preferably using colors or a gray scale. The unique indicia are then placed adjacent to at least some lines of text in the document. The unique indicia placed adjacent to each line of text correspond to the characteristic or characteristics in the line of text on the basis of the key. Each line of text may have multiple indicia corresponding to multiple characteristics in the same line. This can be best seen in Appendix A from the provisional applications. (A copy of Appendix A is enclosed.)

The rejection based on Rivette is based on an impermissible obviousness to try standard.

### **The Claimed Invention:**

**A Method for Encoding a Document Where Multiple Indicia Are Placed in the Margin to Indicate Multiple Characteristics For The Same Line of Text and They Are Contiguous/Continuous In At Least Some Instances**

Claim 1, as amended, is a method for encoding a document with indicia. There is

a key showing what characteristic each indicia represents. The indicia are placed in the margin next to the text to indicate the characteristics of the text next to it. Multiple indicia are used to indicate multiple characteristics for at least one line of text.

The official action indicates that Rivette contains all the elements of each of the claims, and in particular, has the capability of putting multiple color-coded elements (shapes) in a margin adjacent the text, and has the capability of connecting so as to be contiguous, color-coded elements from adjacent lines of text. Rivette neither teaches nor suggests any such multiple shapes or contiguous arrangement.

**Rivette Is a System And Method For Creating and Manipulating Notes And Sub-Notes and Linking The Notes and Sub-Notes To Text**

Rivette is merely a system and method for creating and manipulating notes and sub-notes for annotating a document and linking the notes and sub-notes to portions of the text of the document.

As can readily be gleaned from the background section of Rivette, his purpose is to take a document image which cannot be searched and text cannot be manipulated, and make it searchable and manipulatable. (See, e.g., col. 1, lines 43-62 and col. 2, lines 54-56). Beginning at Col. 36, line 40, the Rivette patent discloses “highlight” functions in connection with Figs. 37 and 3.

First, with respect to icons 381, 382 and 384, they are displayed over an image (patent drawing 410) to allow highlighting by providing an overlay of the highlighting onto the bitmap image (otherwise non highlightable). This has nothing to do with the presently claimed invention.



Second, the text (at area) 540 can be highlighted. This again has nothing to do with the claimed invention. The presently claimed invention puts color codes in the margin in columns so that one can place multiple colors adjacent text and understand the concepts (characteristics, e.g., protagonist speaking and climax) that are occurring in the story/text. The colors thus emphasize the concept or concepts, not the words themselves.

Third, “color indicator 542 further identifies the color by using symbols. For example, ..., if a red marker is selected, color indicator 542 is round and red. However, if a yellow marker is selected, then the color indicator 542 is in the shape of a yellow triangle,... (Col. 37, lines 6-11) The marginal color/shape is merely provided to emphasize the color of the highlighting, and particularly if the display is black and white, and to display a note. While col. 37, lines 12-20, may indicate that multiple highlighting colors can be placed over the same text, that is the purpose of placing multiple horizontally arranged color indicators 542. In other words, they support the highlighted text and provide hyperlinks and/or links to call up notes about the text. (See col. 37, lines 19-21: **“Clicking on any of the color indicators (542) results in the display of the corresponding patent note.”**)

In the claimed invention, the color coding is not to call up notes about the text. Rather, it intrinsically represents a characteristic of the text.

Moreover, even assuming that one not only would place multiple “color indicators 542” adjacent one line of text, there is absolutely no reason, suggestion, or common sense indication that one would make the color indicators run continuously down a column in the margin. In fact, that would defeat the purpose of having a shape for each color indicator, does not appear possible given the drawing of Fig. 37 of Rivette, and is

speculative and hindsight based.

Rivette's Fig. 63, window 160, showing a square adjacent line "[73] Assignee: International Business Machines, Armonk," showing triangles adjacent items [21] and [22], and showing a blackened circle adjacent line [58] does not support the rejection. Rather, it shows significant space between the color indicators (the square, each of the triangles and the blackened circle). Smushing the color indicators together from adjacent lines would be confusing, and would probably hinder the ability to link to the notes.

**The office action uses an impermissible obviousness to try standard**

"[T]hat a patent claim cannot be proved obvious merely by showing that the combination of elements was 'obvious to try'" has been the patent law for a long time and has been confirmed by the U.S. Supreme Court, e.g., in KSR v. Teleflex, 550 U.S. 398, 82 USPQ2d at 1391 (2007). The use of "can" and "could" and the general tenor of the rejection based on Rivette is essentially an "obviousness to try" rejection couched as an "inherency" argument in this section 102(b) rejection over Rivette. Such a rejection cannot stand.

In summary, claim 1 includes steps of placing and/or creating:

- (i) color-coded segments (as the unique indicia);
- (ii) in the margin adjacent and in line with lines of text; and

(iii) there are adjacent lines of text having the same color-coded segment in a columnar, contiguous relationship and perpendicular to the lines of text. This arrangement is simply not shown or suggested by Rivette.

**B. CLAIM 7:**

The invention as recited in claim 7 is a system for encoding and displaying a document. It recites the unique indicia placed adjacent each line of text correspond to the characteristic or characteristics in the line of text on the basis of the key. There is at least one line of text having at least two unique indicia adjacent thereto. The unique indicia comprise color-coded segments, and the color-coded segments are placed in a margin adjacent to and in line with the text of the line.

Further, it recites that there are at least some color-coded segments placed contiguously with the same color-coded segments from adjacent lines of text and in a columnar arrangement perpendicular to the lines of text, so as to form continuous segments of color-coding, and at least some lines of text have at least two characteristics and a corresponding number of unique indicia in the margin adjacent the lines.

Accordingly, claim 7 is believed patentably distinct from Rivette for the same reasons as set forth above with respect to claim 1.

**C. CLAIM 13:**

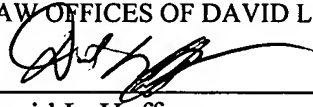
Claim 13 recites an encoded document (Fig. 5, text lines 101-117, and columns j, k, l) of the type created by the process and system of claims 1 and 7. There are at least some unique indicia adjacent at least some lines of text in the document. The unique indicia adjacent each line of text correspond to the characteristic or characteristics in the line of text on the basis of the key. There is at least one line of text having at least two unique indicia adjacent thereto. The unique indicia comprise color-coded segments, and the color-coded segments are placed in a margin adjacent to and in line with the text of the line.

As in claims 1 and 7, there are at least some color-coded segments placed contiguously with the same color-coded segments from adjacent lines of text and in a columnar arrangement perpendicular to the lines of text, so as to form continuous segments of color-coding, and at least some lines of text have at least two characteristics and a corresponding number of unique indicia in the margin adjacent the lines.

Accordingly, claim 13 is believed patentably distinct from Rivette for the same reasons as set forth above with respect to claim 1.

Respectfully submitted,

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Encls.  
Appendix

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## APPENDIX

1. (Previously presented) A method of encoding a document comprising the steps of:

identifying multiple characteristics about text of the document;  
creating a key for correlating the multiple characteristics with multiple unique indicia; and  
placing at least some of the unique indicia adjacent at least some lines of text in the document, wherein the unique indicia placed adjacent each line of text correspond to the characteristic or characteristics in the line of text on the basis of the key, wherein there is at least one line of text having at least two unique indicia adjacent thereto, wherein in the steps of creating and placing, the unique indicia comprise color-coded segments, and the color-coded segments are placed in a margin adjacent to and in line with the text of the line, and wherein there are at least some color-coded segments placed contiguously with the same color-coded segments from adjacent lines of text and in a columnar arrangement perpendicular to the lines of text, so as to form continuous segments of color-coding, and at least some lines of text have at least two characteristics and a corresponding number of unique indicia in the margin adjacent the lines.

2. (Canceled)

3. (Previously presented) The method of claim 1, wherein the document is stored on a digital medium, and in the steps of creating and placing, the key is stored on a digital medium, and the unique indicia are stored in a digital medium.

4. (Canceled)

5. (Previously presented) The method of claim 3, further comprising a step of selectively changing the key by changing at least one of the color-coding and the characteristics.

6. (Canceled)
7. (Previously presented) A system for encoding and displaying a document comprising:
  - a memory containing a document and multiple characteristics about text of the document each in relation to a unique indicia, and containing a key for correlating the multiple characteristics with each of the unique indicia;
  - a display showing at least some of the unique indicia adjacent at least some lines of text in the document, wherein the unique indicia placed adjacent each line of text correspond to the characteristic or characteristics in the line of text on the basis of the key, wherein there is at least one line of text having at least two unique indicia adjacent thereto, wherein the unique indicia comprise color-coded segments, and the color-coded segments are placed in a margin adjacent to and in line with the text of the line, and wherein there are at least some color-coded segments placed contiguously with the same color-coded segments from adjacent lines of text and in a columnar arrangement perpendicular to the lines of text, so as to form continuous segments of color-coding, and at least some lines of text have at least two characteristics and a corresponding number of unique indicia in the margin adjacent the lines.
8. (Previously presented) The system of claim 7 wherein the memory comprises a digital recording medium, and the system further comprises a processor for controlling the display, and for selectively changing at least one of the characteristics and the unique indicia in the key.
9. (Canceled)
10. (Canceled)
11. (Canceled)

12. (Canceled)

13. (Previously presented) An encoded document, comprising:  
a document having various lines of text having multiple characteristics;

and

multiple unique indicia in a margin of the document adjacent at least some lines of text, the unique indicia corresponding to the multiple characteristics in each of the various lines of text, wherein there is at least one line of text having at least two unique indicia adjacent thereto, wherein the color-coded segments are placed in a margin adjacent to and in line with the text of the line, and wherein there are at least some color-coded segments placed contiguously with the same color-coded segments from adjacent lines of text and in a columnar arrangement perpendicular to the lines of text, so as to form continuous segments of color-coding, and at least some lines of text have at least two characteristics and a corresponding number of unique indicia in the margin.

14. (Canceled)

15. (Canceled)

16. (Canceled)

17. (Previously presented) The method of claim 5, wherein the characteristics of each line are stored in a digital recording medium, and there is a step of selectively placing a plurality of the unique indicia corresponding to the multiple characteristics, based on the key, adjacent at least some of the lines of text.

18. (Previously presented) The system of claim 7 further comprising a controller for enabling a user to select a plurality of the multiple characteristics, and for

changing the display based on the selection to show the unique indicia which correspond to the selected multiple characteristics.

19. (Previously presented) The document of claim 13 wherein the document is stored on a digital storage medium.

20. (Previously presented) The method of claim 1, further comprising a step of storing the document on a digital recording medium.



**EVIDENCE APPENDIX**

NONE.

**RELATED PROCEEDINGS APPENDIX**

NONE.

PROVISIONAL EXEMPLARY PAGE 1 APPENDIX

Appendix A

- ☐ = CONFLICT
- ☐ = NEW SCENE
- ☐ = CLIMAX
- ☐ = NARRATION
- ☐ = DENOUMENT

OCEAN EMPIRE

by

I. Xavier Haase

Summary: Ocean Empire is the story of a group of scientists and physicists who secretly come up with the discovery of cold fusion. They quietly sell the electricity they generate to third world countries in Africa, Asia and Latin America. Once they generate sufficient working capital, they begin to build their "cities in the sea." These cities in the sea are located throughout the Pacific Ocean, and they are built upon frameworks that are anchored upon sea mounts, under the guise that they will provide the platforms for deep-sea oil exploration. (These sea mounts lie in just three hundred feet of water, and they provide the ideal foundation to the frameworks that support the cities in the sea). Once the cities are in place and functioning, the truth of a new geopolitical entity is revealed to the world: the Empire of the Ocean, or, as the scientists and physicists who created it call it, the EO. With the inexpensive and unlimited electrical power at the disposal of the EO, and the potential to change the geopolitical and economic structure of the planet, the United Nations (with the full backing of the most powerful country in the history of the planet, the United States of America) decides to take military action in order to prevent the EO from eventually controlling the planet. Before any military action can begin, though, the EO launches a preemptive strike on the nations of the world by shutting off all the electrical power it had been quietly supplying to the majority of the energy-hungry planet for many decades. Paralyzed and unable to function, the rest of the planet, including the powerful United States of America, is forced to accept the reality of the existence of the EO and the EO's plans for the restructuring of the planet. This is the story of the creation of the EO and its victory over the greedy, wasteful, polluting, warring, and inefficient nations of the earth. This is the story of the transformation and salvation of the planet Earth.